

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10676 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

POLYLINK POLYMERS (INDIA) LTD

Versus

GEB

Appearance:

MR KB PUJARA for Petitioner

MR TUSHAR MEHTA for Respondent No. 1

MS.AMI YAGNIK ASSTT.GOV'T. PLEADER for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 16/01/97

ORAL JUDGEMENT

Rule. Mr.Tushar Mehta, learned counsel waives the service of notice of Rule on behalf of respondent no.1 and Ms.Ami Yagnik, learned Asstt. Govt. Pleader waives the service of notice of Rule on behalf of respondent no.2. At the request of learned counsel for the parties, petition is heard today.

2. By means of filing this petition under Art. 226 of Constitution, the petitioner has prayed to restrain respondent no.1 from enforcing payment of supplementary bill dt. November 1, 1996 and disconnecting power supply of the petitioner's H.T. installation during pendency and disposal of application filed by the petitioner before respondent no.2 under Sec. 26(6) of the Indian Electricity Act, 1910.

3. It is agreed between the parties that this is not a case of theft of electric energy but during checking, the meter was found to be running slow by 40.54% and therefore, the impugned supplementary bill has been issued to the petitioner. The petitioner has made necessary application before the Electrical Inspector as required by Sec.26(6) of the Indian Electricity Act. The fact that application submitted by the petitioner before respondent no.2 under Sec. 26(6) of the Indian Electricity Act is pending, is not in dispute. The Supreme Court in the case of Bihar State Electricity Board and Another Versus Parmeshwar Kumar Agarwal etc. etc., AIR 1996 SC 2214 has held that submitting a supplementary bill to consumer by Board is not permissible when application under Sec.26(6) of the Electricity Act is pending before Electrical Officer. Even otherwise, learned counsel appearing for the respondent no.1 has stated that the amount mentioned in the supplementary bill shall not be recovered from the petitioner till the application filed by the petitioner is decided by the Electrical Inspector. Learned counsel for the petitioner has brought to the notice of the court the communication dt. January 2, 1997 issued by Electrical Inspector wherein it is mentioned that the Electrical Inspector has expressed his inability to proceed with the matter as the present petition is pending in the High Court.

3. For the foregoing reasons, petition partly succeeds. The respondent no.1 is hereby restrained from enforcing the payment of supplementary bill dt. November 1, 1996 and disconnecting power supply of the petitioner's H.T. installation during pendency and disposal of application submitted by the petitioner before the respondent no.2 under Sec.26(6) of the Indian Electricity Act, 1910. The respondent no.2 is hereby directed to dispose of the said application on merits and in accordance with law as early as possible and preferably within three weeks from today. If the decision rendered by the respondent no.2 is adverse to the petitioner, supplementary bill dt. November 1, 1996 shall not be enforced for a period of TEN days from the

date of communication of the order which may be rendered by the respondent no.2 to enable the petitioner to approach the higher forum.

Rule is made absolute accordingly with no order as to costs.
